

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**
(Northern Division)

CHELSEA GILLIAM, *et al.*,

*

Plaintiffs,

*

v.

Civil Action No. 1:23-cv-1047

*

DEPARTMENT OF PUBLIC SAFETY
AND CORRECTIONAL SERVICES, *et al.*, *

Defendants.

*

* * * * *

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

On August 15, 2024, Defendants filed a motion to dismiss Plaintiffs' Fourth Amended complaint, arguing, among other things, that Plaintiffs failed to allege an Eighth Amendment claim for cruel and unusual punishment and a sex discrimination claim under the Fourteenth Amendment [ECF 132]. On September 12, 2024, Plaintiffs submitted their opposition. [ECF 138]. The motion remains pending before the Court.

Plaintiffs respectfully submit this notice of supplemental authority to inform the Court and Defendants that on September 17, 2024, the United States District Court for the Southern District of Indiana issued an Order granting a preliminary injunction in *Autumn Cordellione v. Commissioner, Indiana Department of Correction*, 3:23-cv-00135-RLY-CSW, Dkt 96, attached hereto as Exhibit 1. The Court granted Ms. Cordellione's injunction, ordering the state to provide Ms. Cordellione with gender-affirming surgery. In its ruling, the Court further affirmed that gender dysphoria is a serious medical condition satisfying the objective prong, and failure to provide the medically necessary treatment amounts to deliberate indifference in violation of the

Eighth Amendment. Additionally, this Order further affirms that discrimination based on transgender status is sex discrimination afforded heightened scrutiny and that failure to provide transgender prisoners with medically necessary care while allowing cisgender prisoners access to that care is a violation of the Equal Protection Clause.

Defendants' arguments in Sections IIIC and IIID, therefore, hold no weight. Defendants' argument regarding Plaintiffs' alleged failure to state a claim under the Eighth Amendment's deliberate indifference subjective prong fails because a diagnosis of gender dysphoria—which Plaintiffs each have—clearly provides objective knowledge, and the subjective, actual knowledge is satisfied when treatment that is less than what is medically necessary is provided. Additionally, Defendants' argument regarding Plaintiffs' alleged failure to state a claim under the Equal Protection Clause also fails because Defendants are preventing Plaintiffs, transgender prisoners, from accessing medically necessary care while allowing cisgender prisoners access to that care, and Defendants have failed to allege any legitimate penological interests.

Dated: September 20, 2024

Respectfully submitted,

/s/

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